

AMENDED IN SENATE AUGUST 28, 2006

AMENDED IN SENATE MAY 2, 2006

AMENDED IN SENATE APRIL 18, 2006

**SENATE BILL**

**No. 1633**

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**Introduced by ~~Senator Ashburn~~ *Senators Ashburn and Migden***

February 24, 2006

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An act to amend Sections 70 and 74.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1633, as amended, Ashburn. Property tax: seismic retrofitting: tax assessments.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution excludes from classification as "new construction" the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following the reconstruction or improvement. Pursuant to an authorization in the California Constitution, existing law excludes from classification as "new construction" the construction or installation in existing buildings of certain seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.

A proposed amendment to the California Constitution, Senate Constitutional Amendment 28 of the 2005-06 Regular Session, would eliminate the 15-year exclusion from classification as “new construction” of structures constructed of unreinforced masonry bearing wall construction and would instead generally exclude from classification as “new construction” the specific portion of construction or reconstruction of seismic retrofitting components on an existing structure.

This bill would implement the proposed amendment to the California Constitution, and would also specify that those that qualified for the 15-year exclusion relating to structures constructed of unreinforced masonry also qualify for the general exclusion for seismic retrofitting components.

(2) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(3) This bill would take effect immediately as a tax levy, but would become operative, as specified, only if Senate Constitutional Amendment 28 of the 2005-06 Regular Session is approved by the voters at the ~~November 7, 2006, statewide general~~ June 3, 2008, ~~statewide primary~~ election.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 70 of the Revenue and Taxation Code is
- 2 amended to read:
- 3 70. (a) “Newly constructed” and “new construction” means:
- 4 (1) Any addition to real property, whether land or
- 5 improvements (including fixtures), since the last lien date; and
- 6 (2) Any alteration of land or of any improvement (including
- 7 fixtures) since the last lien date that constitutes a major
- 8 rehabilitation thereof or that converts the property to a different
- 9 use.

1 (b) Any rehabilitation, renovation, or modernization that  
2 converts an improvement or fixture to the substantial equivalent  
3 of a new improvement or fixture is a major rehabilitation of that  
4 improvement or fixture.

5 (c) Notwithstanding subdivisions (a) and (b), where real  
6 property has been damaged or destroyed by misfortune or  
7 calamity, “newly constructed” and “new construction” does not  
8 mean any timely reconstruction of the real property, or portion  
9 thereof, where the property after reconstruction is substantially  
10 equivalent to the property prior to damage or destruction. Any  
11 reconstruction of real property, or portion thereof, that is not  
12 substantially equivalent to the damaged or destroyed property,  
13 shall be deemed to be new construction and only that portion that  
14 exceeds substantially equivalent reconstruction shall have a new  
15 base year value determined pursuant to Section 110.1.

16 (d) (1) Notwithstanding subdivisions (a) and (b), where a tank  
17 must be improved, upgraded, or replaced to comply with federal,  
18 state, and local regulations on underground storage tanks, “newly  
19 constructed” and “new construction” does not mean the  
20 improvement, upgrade, or replacement of a tank to meet  
21 compliance standards, and the improvement, upgrade, or  
22 replacement shall be considered to have been performed for the  
23 purpose of normal maintenance and repair.

24 (2) Notwithstanding subdivisions (a) and (b), where a  
25 structure, or any portion thereof, was reconstructed, as a  
26 consequence of completing work on an underground storage tank  
27 to comply with federal, state, and local regulations on these  
28 tanks, timely reconstruction of the structure shall be considered  
29 to have been performed for the purpose of normal maintenance  
30 and repair where the structure, or portion thereof, after  
31 reconstruction is substantially equivalent to the prior structure in  
32 size, utility, and function.

33 SEC. 2. Section 74.5 of the Revenue and Taxation Code is  
34 amended to read:

35 74.5. (a) For purposes of subdivision (a) of Section 2 of  
36 Article XIII A of the California Constitution, “newly  
37 constructed” and “new construction” does not include that  
38 portion of an existing structure that consists of the construction  
39 or reconstruction of seismic retrofitting components, as defined  
40 in this section.

(b) For purposes of this section, all of the following apply:

(1) “Seismic retrofitting components” means seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies.

(2) “Seismic retrofitting improvements” means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger. “Seismic retrofitting improvements” also means either structural strengthening or providing the means necessary to resist seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. “Seismic retrofitting improvements” does not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure. “Seismic retrofitting” includes, but is not limited to, those items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(3) “Improvements utilizing earthquake hazard mitigation technologies” means improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake. These improvements shall involve strategies for earthquake protection of structures. These improvements shall use technologies such as those referenced in Part 2 (commencing with Section 101) of Title 24 of the California Building Code and similar seismic provisions in the Uniform Building Code.

(c) The property owner, primary contractor, civil or structural engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting components, as defined in this section. Upon completion of the project, the building department shall report to the county assessor the costs of the portions of the project that are seismic retrofitting components.

(d) In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting components. The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.

(e) The Legislature finds and declares that the reconstruction and improvement actions that were excluded from “newly constructed” and “new construction” by Chapter 1187 of the Statutes of 1983 meet the requirements of “construction or reconstruction of seismic retrofitting components on an existing structure,” as provided in the act that amended this subdivision. Therefore, a structure constructed of unreinforced masonry bearing wall construction that is receiving a 15-year new construction exclusion as provided by Chapter 1187 of the Statutes of 1983 on ~~November 7, 2006~~, *the operative date of this act* shall continue to receive, pursuant to this section, an exclusion after the 15-year period expires, unless the property is purchased or changes ownership, in which case Chapter 2 (commencing with Section 60) applies.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

SEC. 5. This act shall become operative only if Senate Constitutional Amendment 28 of the 2005-06 Regular Session is approved by voters at the ~~November 7, 2006~~, *statewide general June 3, 2008, statewide primary* election and, in that event, shall become operative on the date upon which this act is chaptered or the effective date of that measure, whichever is later.